REMARKS/ARGUMENTS

Summary of Rejections

Claims 1-21 were pending at the time of this Office Action.

Claims 1-21 stand rejected under 35 USC § 112, second paragraph as being indefinite.

Claims 1-3 and 19-20 stand rejected under 35 USC § 102(e) over *Li,* U.S. Patent No. 6,519,594 B1 (hereafter *Li*).

Claims 4-6 and 21 stand rejected under 35 USC §103(a) in view of *Li.*

Claims 7-18 stand rejected under 35 USC §103(a) over *Li* in view of *Swartz et al.,* U.S. Patent No. 6,625,651 B1 (hereafter *Swartz*).

Summary of Response

This case remains pending for continued examination following a decision of the Pre-Appeal Review Panel dated December 19, 2006. Examiner now asserts the four new grounds for rejection listed above.

In response, Applicants amend the independent claim 1 to remove any indefiniteness. Applicants then point out why *Li* does not teach or suggest all of the elements of the independent claim 1. The Applicants also demonstrate that *Li* and *Swartz* are not properly combined and do not support an obviousness rejection.

Summary of Claims Pending

Claims 1-21 are currently pending following this response.

Applicants hereby request further examination and reconsideration of the presently claimed application.

I. Claim Rejection and Response – 35 USC §112, second paragraph

Claims 1-21 stand rejected under 35 USC §112, second paragraph, as being indefinite for

failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. Specifically, Examiner contends that the phrase "an application processing the batch job" (last line) in the independent claim 1 is indefinite, asserting that an "application is a batch job" according to Applicants' definition in the Specification. The Specification at page 1 defines a "batch job" as follows:

> A batch job (also referred to as a batch program) is a computer software application (i.e., program) for performing some repetitive, low priority task that typically requires no direct external input (i.e., non-interactive, non-conversational). Common examples of batch jobs include report generation (e.g., daily, weekly, monthly reports) and data updating, backup, and sorting.

Applicants have amended the independent claim 1 to remove the redundant reference to "an application" and overcome Examiner's rejection under 35 USC §112, second paragraph. The objectionable language in claim 1 is now amended to read: "...a uniform application programming interface for ~~an application~~ processing the batch job...." All of the remaining claims are dependent on claim 1. Therefore all of the claims 1-21 are allowable over the indefiniteness rejection.

II. Claim Rejection and Response – 35 USC § 102(e)

Claims 1-3 and 19-20 stand rejected under 35 USC § 102(e) as unpatentable over *Li* (U.S. 6,519,594). Claims 2-3 and 19-20 depend on claim 1, thus claims 1-3 and 19-20 stand or fall on the application of *Li* to claim 1. Applicants respectfully traverse this rejection.

According to MPEP §2131, "[a] claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." Applicants submit that *Li* fails to teach each and every element as set forth in independent claim 1, and consequently fails to anticipate claims 1-3 and 19-20.

Claim 1 (as amended) describes:

1.   A method for processing a batch job, comprising:
         wrapping the batch job to create an application programming interface for communication with a batch framework, the batch framework comprising a batch dispatcher class, and the batch dispatcher class further comprising a method to execute the batch job; and

         invoking the batch framework according to a predetermined schedule via execution of a command line parameter, wherein the method provides for efficient reuse of programming code and platform independence by encapsulating the batch job and providing a uniform application programming interface for processing the batch job according to the method. [emphasis added]

Applicants' prior appeal was based on the observation that Examiner never established a *prima facie* case of obviousness because of a failure to map the first highlighted language above to any prior art citation. This case was remanded for further examination by the Pre-Appeal Review Panel. Examiner now brings a new ground for rejection based on *Li* without responding to Applicants' arguments on appeal. However, *Li* fails to overcome the deficiency of the prior rejections, and it fails to establish a *prima facie* case of obviousness because *Li* does not teach or suggest all of the elements of Applicants' independent claim 1.

Li has little in common with Applicants' method. Examiner's copious citations from *Li* are taken out of context and do not teach or suggest the elements of Applicants' claims. Applicants describe a method for processing a batch job. Applicants' FIG. 1A, reproduced below, discloses the elements of independent claim 1 emphasized above:
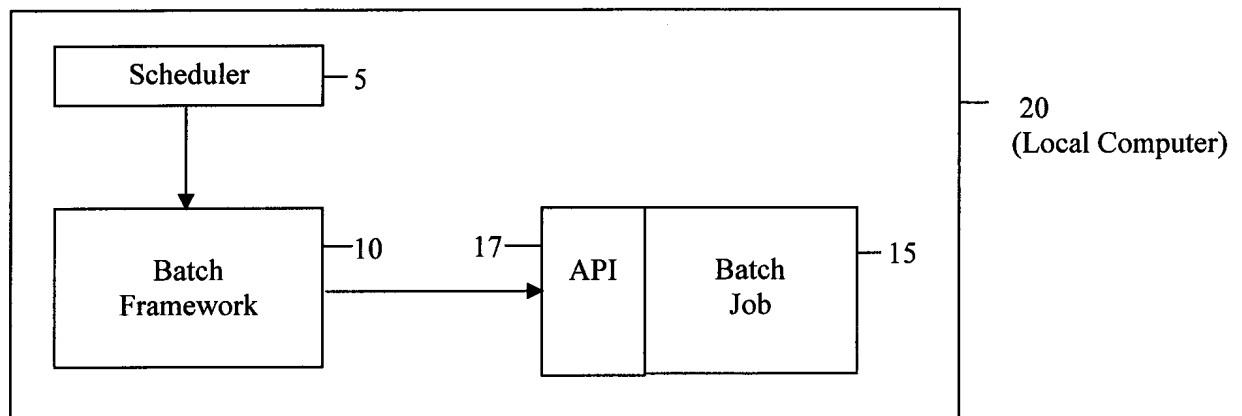
Figure 1A

Applicants' Figure 1B is similar except that the Local Computer 20 supports the Scheduler

5 and the Batch Framework 10 while a remote computer 25 supports the API 17 and the Batch Job

15.

**A. Li does not teach or suggest "wrapping the batch
job to create an application programming interface
<u>for communication with a batch framework.</u>"**

Li teaches a consumer entertainment center used to connect and control multiple audio-

visual devices on demand through a proprietary audio-visual operating system (AV/OS). *Li*

accomplishes this goal by configuring **multiple** Java Virtual Machines (JVMs) that are adapted to

share a memory pool (SMP) between different **external audio-visual applications** in such a way

that the external applications are **interoperable**. *Li* column 2, lines 27-37; lines 44-48; and lines

55-58. Examples of such external applications include "desktop applications, applets and internet

based applications, home networking applications, MPEG applets, gaming, gaming applications

and next generation audio-visual applications...." See *Li*, column 2, lines 60-64. *Li* **does not** teach

or suggest the operation of a *"batch job."*

While *Li* uses a standard Java "wrapper," it is not used to *"wrap a batch job." Li's*

"wrapper" is part of a Java layer 160 that runs on top of the proprietary Aperios AV/OS operating

system 150 in order to provide interoperability with external applications through multiple Java Virtual Machines (JVMs) 130. See e.g. *Li* Figures 3, 4 and 12.

Li also does not use a wrapper to *"create an application programming interface"* to a "batch job" or otherwise. *Li* uses a standard class loader API as an interface between each JVM and the operating system. *Li* column 6, lines 33-36; column 11, lines 7-9 and 56-58.

B. Li does not teach or suggest "invoking the batch
<u>**framework according to a predetermined schedule."**</u>

In addition to the above deficiencies, *Li* does not teach or suggest the execution of a batch framework according to a predetermined schedule. Examiner concedes at paragraph 11 of the Office Action that "*Li* is silent that there is a service performed in relation to the scheduler." In other words, *Li* does not teach or suggest the use of a predetermined schedule in its operation. Examiner's citations of *Li* column 7, lines 42-65; and column 5, line 64 to column 6, line 2 do not teach or suggest otherwise.

Li does not anticipate claim 1 because it fails to include all of claim 1's elements. Rejected claims 2-3 and 19-20 depend on claim 1 and include all of claim 1's elements. Accordingly, pending claims 1-3 and 19-20 are not anticipated by *Li* under 35 U.S.C. §102(e).

III. Claim Rejection and Response -- 35 USC §103(a)

Independent claim 1 and dependent claims 4-6 and 21 stand rejected under 35 USC §103(a) as being unpatentable over *Li*. Dependent claims 7-18 stand rejected under 35 USC §103(a) over *Li* in view of *Swartz*. Applicants respectfully traverse these rejections.

Applicants respectfully submit that *Li,* alone or in combination with *Swartz*, do not establish a *prima facie* case of obviousness as to the pending claims. According to MPEP § 2142, three basic criteria must be met to establish a *prima facie* case of obviousness:

First, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. Second, there must be a reasonable expectation of success. **Finally, the prior art reference (or references when combined) must teach or suggest all the claim limitations.** The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure.

Similarly, the fact that Examiner has the burden of proof with respect to the elements of the *prima facie* case of obviousness is also well defined in MPEP § 2142:

The initial burden is on Examiner to provide some suggestion of the **desirability** of doing what the inventor has done. To support the conclusion that the claimed invention is directed to obvious subject matter, either the references must expressly or impliedly suggest the claimed invention or Examiner must present a convincing line of reasoning as to why the artisan would have found the claimed invention to have been obvious in light of the teachings of the references.

Applicants respectfully submit that the cited references do not establish a *prima facie* case of obviousness as to the pending claims because the cited references fail to teach or suggest all of the claim limitations; there is no showing of the desirability of any combination or modification of *Li* or *Swartz*; and there is no reasonable expectation of success that *Li*, alone or in combination with *Swartz* could provide the elements set forth in Applicants' claims.

A. *Li* does not teach or suggest all of the limitations of Applicants' independent claim 1.

As explained previously above, Li does not establish a *prima facie* case of obviousness because *Li* does not teach or suggest all of the elements of independent claim 1. *Li* is a fundamentally different system from the one claimed by Applicants. Briefly, *Li* is a consumer entertainment center that is adapted to simultaneously operate multiple audio-visual devices or data feeds. Applicants execute batch jobs according to a pre-determined schedule. There is no teaching or suggestion in *Li* of Applicants' batch job processing method. There would be no motivation to use the *Li* apparatus to attempt to schedule batch jobs. There is no reasonable

10

expectation of success if one attempted to use the apparatus of *Li* to schedule the running of batch jobs. Thus, independent claim 1 and claims 4-6 and 21 depending therefrom are patentable over *Li*.

B. *Li* and *Swartz* are not properly combined.

Li in view of *Swartz* was applied only against dependent claims 7-18 under 35 USC §103(a), but not against the independent claim 1. As shown above, independent claim 1 is allowable over *Li*. Claims 2-21 depend on claim 1 and contain all of its elements. Consequently, the dependent claims 2-21 are also allowable over *Li* alone or in combination with *Swartz*, for the reasons set forth previously.

Furthermore, there is no suggestion or motivation in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify *Li* and *Swartz* or to combine their teachings. *Swartz* is used for transaction data management during the activation of a local telecommunication service. See *Swartz* column 2, lines 20-24. There is no motivation to combine the processes taught by *Swartz* with the entertainment center of *Li*.

Examiner concludes at paragraph 14 (regarding Applicants' dependent claims 7 and 8) that "[it] would be obvious ... to combine the use of Autosys to the invention of *Li* because Autosys will provide for job management for the scheduling. The cited portion of *Swartz* (column 20, lines 56-62) only discloses that "Autosys" is a standard batch scheduler. There would be no motivation to use Autosys in *Li* because "the scheduling" function is absent from *Li* as previously discussed.

In paragraphs 15 and 16 of the Office Action, Examiner also cites *Li* in combination with *Swartz* against dependent claims 9 and 10, stating that *Swartz* teaches a command line parameter that is a Unix shell script (citing *Swartz* column 4, line 52) or Windows NT batch file (citing

Swartz column 4, line 50). The citations from *Swartz* do not support either of Examiner's

conclusions. *Swartz* merely mentions the UNIX and NT operating systems along with other

operating systems as being useful in the workstations used in the *Swartz* apparatus and method.

The full quote at Swartz column 4, lines 48 to 53 states:

> The workstation typically has resident thereon an operating system such as the Microsoft's Windows NT, Windows/95 Operating System (OS), IBM OS/2 operating system, MACOS, or UNIX operating system.

There is no mention of scripts or batch files, nor is there any mention of batch scheduling in

these citations from *Swartz*. Examiner's rejections of dependent claims 11-18 over *Li* in view of

Swartz repeat the above rejections *verbatim,* and they are insufficient for the same reasons

already stated.

Accordingly, independent claim 1 and all of the dependent claims 2-21 are allowable

over the prior art of record for the reasons discussed above.

CONCLUSION

Consideration of the foregoing amendments and remarks, reconsideration of the application, and withdrawal of the rejections and objections is respectfully requested by Applicants. No new matter is introduced by way of the amendment. It is believed that each ground of rejection raised in the Office Action dated February 27, 2007 has been fully addressed. If any fee is due as a result of the filing of this paper, please appropriately charge such fee to Deposit Account Number 21-0765, Sprint. If a petition for extension of time is necessary in order for this paper to be deemed timely filed, please consider this a petition therefore.
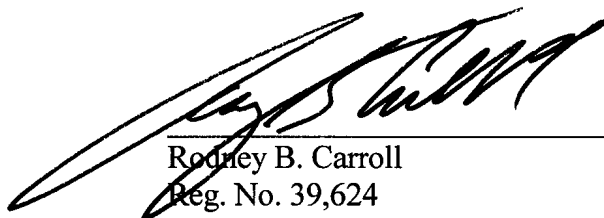
If a telephone conference would facilitate the resolution of any issue or expedite the prosecution of the application, Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

Date: _5-23-07_

Rodney B. Carroll
Reg. No. 39,624

CONLEY ROSE, P.C.
5700 Granite Parkway, Suite 330
Plano, Texas 75024
(972) 731-2288
(972) 731-2289 (facsimile)

ATTORNEY FOR APPLICANTS

13